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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,631	05/25/2000	William H. Barber	387953	5757
30955 7590 11/19/2007 LATHROP & GAGE LC 4845 PEARL EAST CIRCLE SUITE 300 BOULDER, CO 80301			EXAMINER SHEIKH, ASFAND M	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 11/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/578,631

Applicant(s)

BARBER ET AL.

Examiner

Asfand M. Sheikh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 23-63, and 64-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/20/2007.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

#### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/27/2007 has been entered.

#### *Acknowledgements*

Claims 1-21, 23-62, and 64-86 remain pending in the instant application. Claims 1, 42, and 59 have been amended. Claim 86 is a new claim. The examiner maintains the same grounds of rejection. This action is made non-final.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-12, 18-21, 26-29, 34-39, 41-53, 59-62, 67-69, 70, 75-80, 82, 83, 84, and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoah et al., and Tognazzini.

Newell et al. teaches a first central processing unit in said kiosk (Newell et al, see at least, FIG. 3b), a database representing kiosk inventory that is accessible by a user via a kiosk interface (see at least, col. 5, lines 52-58, col. 7, lines 27-29, and col. 11, lines 24-27), instructions stored on first readable media that direct the first central processing unit (Newell et al., see at least, col. 5, lines 26-31) to request billing information from the user (Newell et al., see at least, col. 5, lines 21-24), respond to a user request from the kiosk (Newell et al, see at least, col. 7, lines 25-29), receive a request for an optical storage media and billing information from said user (Newell et al., see at least, col. 7, lines 19-39), transmit billing instructions to said system server (Newell et al., see at least, col. 4, lines 24-28), and dispensing the optical storage media to said user (Newell et al., see at least, col. 7, lines 65-67 and col. 8, line 1), a second central

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processing unit in said system server (Newell et al., see at least, FIG. 1), instructions stored on second readable media that direct the second central processing unit to (Newell et al., see at least, FIG. 1) to receive billing information from said first central processing unit (Newell et al., see at least, col. 4, lines 24-28).

The examiner notes Newell et al. is silent with respect to accessing the kiosk inventory via the internet, wherein the billing information contains a user-specified e-mail address, waiting for the kiosk to receive conformation of billing from the system server, having the system server perform a credit verification routine on a credit account in said billing information, transmitting said confirmation to said first central processing unit responsive to a verification of credit account, and transmit an electronic receipt for said transaction to a said user specified e-mail address in said billing information.

Hamm et al. teaches allowing a customer to utilize the Internet to access the central computer to learn of new products and supply within the supply network and intelligent dispensing machines (Hamm et al., see at least, col. 5, lines 12-21).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify the teachings of Newell et al. to include allowing a customer to utilize the internet to access the central computer to learn of new products and supply within the supply network and intelligent dispensing machines as taught by Hamm et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide an integrated supply network that takes advantage of the Internet to obtain accurate information of supply within supply network (Hamm et al., see at least, col. 1, lines 65-67 and col. 2, lines 1-9).

Kanoh et al. teaches having the kiosk communicate credit information to the host computer (Kanoh et al, see at least, col. 6, lines 41-56) waiting for the kiosk to receive confirmation of billing from the system server (Kanoh et al, see at least, col. 6, lines 41-56), having the system server perform a credit verification routine on a credit account in said billing information (Kanoh et al, see at least, col. 6, lines 41-56), transmitting said confirmation to said first central processing unit responsive to a verification of credit account (Kanoh et al, see at least, col. 6, lines 41-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to

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include waiting for the kiosk to receive conformation of billing from the system server, having the system server perform a credit verification routine on a credit account in said billing information, transmitting said confirmation to said first central processing unit responsive to a verification of credit account as taught by Kanoh et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a secured means for verifying the membership of a user (Kanoh et al, see at least, col. 1, lines 42-57).

Tognazzini teaches wherein the billing information received includes an e-mail address (Tognazzini, see at least, abstract and col. 4, lines 53-58) and deliver an electronic receipt based on said transaction to a user specified email address (Tognazzini, see at least, abstract and col. 4, lines 53-58).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include wherein the billing information received includes an e-mail address and deliver an electronic receipt based on said transaction to a user specified email address as taught by Tognazzini. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide the elimination of paper receipts in order to store transaction

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information for a user that can be accessed at later time

(Tognazzini, see at least, col. 2, lines 17-21).

As to claims 2 and 44, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claim except for reading data from the optical storage media in the kiosk and displaying the data on a display.

The examiner takes official notice that it is notoriously old and well known in the art to do so. For instance, it is old and well known to read the data from a CD or DVD in order to show the contents on the display or play parts of the content.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by reading data from the optical storage media in the kiosk and displaying the data on a display in order to provide information to the user.

As to claim 4, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach an optical reader comprising the bar code reader (Newell et al, see at least, FIG. 3b).



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Alternatively, as to claims 4-6, 46 and 47, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claim except an optical media reader, and instructions for the kiosk to read the returned media, detect and error, and record an indication that the media contains an error in response to the detection of an error.

The examiner takes official notice that to do so is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an optical media reader, and instructions for the kiosk to read the returned media, detect and error, and record an indication that the media contains an error in response to the detection of an error in order to avoid selling or renting defective media, therefore increasing customer satisfaction.

As to claims 7, 8, 48 and 49, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claim except receiving a signal from the user that the returned media contains an error wherein the signal is read from a flag on the media casing.

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The examiner takes official notice that to do so is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include receiving a signal from the user that the returned media contains an error wherein the signal is read from a flag on the media casing in order to detect problem disks and remove them from circulation or repair them.

As to claims 9-11, Newell et al. teaches a plurality of optical storage media in a kiosk that is maintained (e.g. adding and removing from inventory) and stored in a storage carousel (Newell et al., see at least, FIG. 3a).

As to claims 20, 21, 53, 61 and 62, Newell et al. teaches the second central processing unit maintains an inventory of optical storage media in said kiosk (Newell et al., see at least, col. 4, lines 13-30). Further Newell et al. teaches providing access to said database to a third central processor (Newell et al., see at least, col. 4, lines 28-35; FIG. 2;

Examiner notes updating the inventory record of a vending machine to be providing access to a the database)

As to claims 26, 67 and 68, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claims except providing an ISP, a third processor at the ISP; programming at the ISP for transmitting messages between the kiosk and server; a tangible media for storing the programming; and the kiosk and server configured to communicate via the ISP; and sending messages via the internet.

The examiner takes official notice that to provide these elements is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by providing these elements and sending message via the internet in order to take advantage of the preexisting infrastructure of the internet.

As to claims 34, 35, 75 and 76, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claims except that the receipt includes

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advertisements comprising promotions for items available at the kiosk.

The examiner takes official notice that to provide advertisements comprising promotions for items available by the seller is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by providing such advertisements in order to stimulate more business.

As to claims 36-38 and 77-79, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claims except including a link to a home page in the receipt showing promotions offered by the seller.

The examiner takes official notice that to do so is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by providing link to a home page in the receipt showing promotions offered by the seller in order to stimulate additional business.

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As to claims 39, 41, 42, 80, 82 and 83, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach providing a media via a dispenser, a slot for returning the media, a reader proximate the retrieval slot, instructions to read an identifier, and determine whether the media belongs to the system. It does not show that the dispenser providing a casing having an identifier; reading an identifier from the casing; or opening the slot upon determining that the media belongs to the system.

The examiner takes official notice that to do so is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include having a dispenser providing a casing having an identifier; reading an identifier from the casing, and opening the slot upon determining that the media belongs to the system in order to protect the media, and ensure that only the correct media owned by the system is returned.

As to claim 86, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the

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claims except said system server operable to adjust a rental price of optical recorded media in said kiosk based upon market conditions local to said kiosk.

The examiner takes official notice many retailers, resellers, and private sellers will adjust the price of their product in order to compete with local market conditions (e.g. adjusting sales price of a house for its market) is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by providing such adjustments in order to promote and flourish more activity.

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Claims 13 and 54 are Claims 13 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claim 1 above further in view of Takahashi et al.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except the device to polish the CDs.

Takahashi et al show a CD polishing device (Takahashi, see at least, abstract).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include the CD polishing device as shown by Takahashi et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a device to polish the CDs to repair damaged disks.

Claims 14 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., Toganzzini, and Takahashi et al. as applied to claims 13 and 54 above further in view of Sakagami et al.

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The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except performing an error checking routing on the optical media or generating an indicia of an error.

Sakagami et al. show performing an error checking routine comprising and generating an indicia of an error on the optical media (Sakagami et al, see at least, title and abstract).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include show performing an error checking routine comprising and generating an indicia of an error on the media as taught by Sakagami et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to properly and correctly identify defective optical media.



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Claims 30-32, 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claims 27 and 70 above, and further in view of Brindze et al.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except concentric markings on the CDs.

Brindze et al. show CDs with unique concentric markings to keep track of each CD (Brindze, see at least, col. 3, lines 39-62).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include unique concentric markings to keep track of each disc. (It is noted that the markings of Brindze are concentric since they have the same center. It is noted that the a plurality of concentric rings was not claimed.)

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Alternatively, claims 30-32, 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claims 27 and 70 above, and further in view of JP 7-182659.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach the features of the applicant's claimed invention except concentric markings on the CDs.

'659 show CDs with unique concentric markings around the center of the CD ('6759, see at least, English abstract and figures).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include concentric bar code in order to allow rapid reading of code and reading regardless of angle.

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Claims 33, 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claims 1 and 43 above further in view of Iida.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except an optical writing system.

Iida disclose an optical writer (28) that writes data requested and received from a server to the CDs (Iida, see at least, col. 14, lines 35-47).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to provide an optical writer in order to write data to the CDs. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide unique data associated with each disc.

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Claims 23-25 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanoh et al in view of Amos as applied to claims 1 and 43 above further et al in view of Stein et al.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except sending advertisements according to a user profile based on items the user has requested in previous transactions.

Stein et al. teaches sending according to a user profile based on items the user has requested in previous transactions (Stein et al, see at least, abstract and col. 7, lines 34-47).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include sending according to a user profile based on items the user has requested in previous transactions as taught by Stein et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide individually targeted promotions and recommendations (Stein et al., see at least, col. 2, lines 14-22).

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Claims 39, 40, 80, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claims 1 and 43 above further in view of Menke.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except a case dispenser.

Menke teaches a case dispenser (Menke, see at least, abstract).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to a case dispenser as taught by Menke. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a structure to protect the optical media.

As to claims 40 and 81, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except a storage compartment for said disc, a pre-metered stamp to allow said casing to be mailed and a preprinted address.

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The examiner takes official notice that to do so is notoriously old and well known in the art.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include a storage compartment for said disk, a pre-metered stamp to allow said casing to be mailed and a preprinted address to ensure that the correct media can be returned in an easy accessible manner.

Claims 41, 82, 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., Toganzzini, and Menke as applied to claims 1 and 43 above further in view of Hirschfield et al.

Newell et al. teaches scanning an identifier and determining if the media belongs to said system.

The combination of Newell et al., Hamm et al., Kanoh et al., Toganzzini, and Menke teach all the features of the applicant's claimed invention except an identifier on the casing.

Hirschfield et al. teaches an identifier on the casing (Hirschfield et al., see at least, FIG. 4).

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The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., Toganzzini, and Mneke to include an identifier on the case as taught by Hirschfield et al. One of ordinary skill in the art would have been motivated to combine the teachings in order correctly identify the items within the casing (Hirschfield et al., see at least, col. 1-25).

Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. in view of Hamm et al., Kanoh et al., and Toganzzini as applied to claims 43 above further in view of Vallaire.

The combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all the features of the applicant's claimed invention except reserving an item at a kiosk.

Vallaire teaches reserving an item at the kiosk (Vallaire, see at least, col. 2, lines 27-37).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini to include reserving

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an item at the kiosk as taught by Vallaire. One of ordinary skill in the art would have been motivated to combine the teachings in order to increase customer satisfaction.

***Allowable Subject Matter***

Claims 15-17 and 56-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 8/27/2007 have been fully considered but they are not persuasive.

With respect to claim 1 and 43, the applicant argues that the combination of references, Newell in view of Hamm, Kanoh, and Tognazzini fails to teach a user-accessible database. The examiner disagrees.

The applicant argues that Newell fails to teach "a database with information representative of kiosk inventory and accessible by the user via the Internet". The examiner disagrees. First the examiner notes that the Hamm reference was



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used to show kiosk inventory accessible by the user via the Internet. Therefore in light of Newell that argument is moot. Further the examiner notes that Newell does indeed teach "a database with information representative of kiosk inventory" (see at least, col. 5, lines 52-58, col. 7, lines 27-29, and col. 11, lines 24-27). Further, the examiner would like to note col. 4, lines 12-35: "Periodically, each of the respective vending machines access the control processing system to report any vending machine activity... may include reports of the current inventory of the vending machine..." The examiner notes that this teaches a database that is present within the kiosk that is representative of the kiosk inventory. This argument is not persuasive.

The applicant argues that Hamm is construed to teach a database that is accessible via a kiosk interface and the internet. The examiner disagrees. First the examiner notes that the Newell reference is used to teach a database with information representative of kiosk inventory. Therefore in light of Newell that argument is moot. Further the examiner notes that Hamm teaches allowing a customer to utilize the Internet to access the central computer to learn of the products within the supply network (see at least, col. 3, lines 15-36,

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col. 4, lines 20-37, col. 5, lines 12-21). The examiner notes that Hamm teaches a CPU 12 that receives information regarding a dispense of products from the intelligent vending machines and allows suppliers to communicate in real time with CPU 12 to learn of real time demand and product distribution to of the intelligent vending machines and that customers are allowed to use the Internet to query CPU 12 for learn of new products, supply feedback and a host of various other applications, which the examiner notes could entail with the real time monitoring of demand and product distribution that the supplier has access too. Further the Hamm teaches that the customer isn't limited to interaction with the intelligent vending machine (col. 5, lines 23-27). The examiner notes that one of ordinary skill in the art would have modified Hamm to include the ability to allow a customer to view the real time monitoring and product distribution as shown by Hamm via the real time monitoring and product distribution of the suppliers. This argument is not persuasive.

The applicant argues that neither Kanoh or Tognazzini teaches "a database with information representative of kiosk inventory." The examiner notes this is moot in light of Newell.

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With respect to claim 1 and 43, the applicant argues that the combination of references, Newell in view of Hamm, Kanoh, and Tognazzini fails to teach a transmission of electronic receipt from system server to the email address. The examiner disagrees. The examiner notes Tognazzini teaches a transmission of electronic receipt from system server to the email address (see at least, col. 7, lines 1-17).

With respect to claim 86, please see grounds of rejection, further the examiner reproduces claim 86 rejection here for sake of clarity.

"As to claim 86, the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini teach all elements of the claims except said system server operable to adjust a rental price of optical recorded media in said kiosk based upon market conditions local to said kiosk.

The examiner takes official notice many retailers, resellers, and private sellers will adjust the price of their product in order to compete with local marker conditions (e.g. adjusting sales price of a house for its market) is notoriously old and well known in the art.

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The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Newell et al., Hamm et al., Kanoh et al., and Toganzzini by providing such adjustments in order to promote and flourish more activity."

#### ***Official Notice***

With respect to the arguments regarding the Official Notice(s), the examiner notes the Official Notices taken in the previous Office Action have not been traversed correctly, therefore the Official Notice(s) have been admitted to be prior art.

#### ***§1.132 Declaration***

The examiner notes the entry of the §1.132 Declaration of Jens Horstmann.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Asfand M Sheikh  
Examiner  
Art Unit 3627

ams  
11/9/2007

  
F. RYAN ZEENDER  
SUPERVISORY PATENT EXAMINER

11/13/07